

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOHN AUBUCHON, et al.,)
)
Plaintiff(s),)
)
vs.)
)
PENSKE TRUCK LEASING CO., L.P.,)
)
Defendant/Third-Party Plaintiff,) Case No. 4:12CV413 JCH
)
)
vs.)
)
DAIMLER TRUCKS NORTH)
AMERICA, LLC,)
)
Third-Party Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiffs' Motion to Remand (ECF No. 8), filed on March 15, 2012, and Third-Party Defendant's Motion to Remand (ECF No. 11), filed on March 27, 2012. Plaintiffs filed their original Petition in the Circuit Court of Jefferson County, State of Missouri. Third-Party Defendant removed this action on March 7, 2012, on the basis of diversity jurisdiction.

Plaintiffs' Motion to Remand argues remand is proper because Third-Party Defendant's removal of this action was untimely under 28 U.S.C. § 1446(b) and because Third-Party Defendant lacked authority to remove this action. Third-Party Defendant initially opposed Plaintiffs' motion but later filed its own Motion to Remand on the grounds that, pursuant to recently discovered information, it is apparent that complete diversity of citizenship between the parties does not exist.

Federal courts are courts of limited jurisdiction. Godfrey v. Pulitzer Pub. Co., 161 F.3d 1137, 1141 (8th Cir. 1998) (citing Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 94 (1998)). "The requirement that jurisdiction be established as a threshold matter 'spring[s] from the nature and limits

of the judicial power of the United States' and is 'inflexible and without exception.' " *Id.* (quoting Citizens, 523 U.S. at 94-95). In the absence of complete diversity of citizenship, this Court does not have subject matter jurisdiction over this matter under 28 U.S.C. §§ 1332 and 1441. See 28 U.S.C. § 1447(c) ("If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded."); see also Atlas Van Lines, Inc. v. Poplar Bluff Transfer Co., 209 F.3d 1064, 1066-67 (8th Cir. 2000).

Accordingly,

IT IS HEREBY ORDERED that Third-Party Defendant's Motion to Remand (ECF No. 11) is **GRANTED**.

IT IS FURTHER ORDERED that this case is **REMANDED** to the Circuit Court of Jefferson County, State of Missouri. An appropriate Order of Remand will accompany this order.

IT IS FURTHER ORDERED that Plaintiffs' Motion to Remand (ECF No. 8) is **DENIED** as moot.

Dated this 11th day of May, 2012.

/s/Jean C. Hamilton
UNITED STATES DISTRICT JUDGE